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8 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 79/16-91

12 **SMOG 4 LESS**  
13 **MOHAMMAD SHAFIQ, OWNER**  
14 **420 W. Lodi Avenue**  
**Lodi, CA 95240**

**A C C U S A T I O N**

**(Smog Check)**

15 **Automotive Repair Dealer Reg. No. ARD 265869**  
16 **Smog Check, Test Only, Station License No.**  
**TC 265869,**

17 **MOHAMMAD SHAFIQ**  
18 **816 South Central Avenue**  
**Lodi, CA 95240**

19 **Smog Check Inspector License No. EO 153784**  
20 **(formerly Advanced Emission Specialist**  
**Technician License No. EA 153784),**

21 **and**

22 **ASIF AFZAL**  
23 **1016 Wellswood Court**  
**Lodi, CA 95240**

24 **Smog Check Inspector License No. EO 635547**

25 Respondents.

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1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais (“Complainant”) brings this Accusation solely in his official capacity  
4 as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of Consumer Affairs.

5 **Smog 4 Less; Mohammad Shafiq, Owner**

6 2. On or about July 14, 2011, the Director of Consumer Affairs (“Director”) issued  
7 Automotive Repair Dealer Registration Number ARD 265869 (“registration”), to Mohammad  
8 Shafiq (“Respondent Shafiq”), owner of Smog 4 Less. The registration was in full force and  
9 effect at all times relevant to the charges brought herein and will expire on July 31, 2016, unless  
10 renewed.

11 3. On or about August 17, 2011, the Director issued Smog Check, Test Only, Station  
12 License Number TC 265869 (“smog check station license”) to Respondent Shafiq. The smog  
13 check station license was in full force and effect at all times relevant to the charges brought herein  
14 and will expire on July 31, 2016, unless renewed.

15 **Mohammad Shafiq**

16 4. In or about 2007, the Director issued Advanced Emission Specialist Technician  
17 License Number EA 153784 to Respondent Shafiq. Respondent's advanced emission specialist  
18 technician license expired on December 31, 2012. Pursuant to California Code of Regulations,  
19 title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent's  
20 election, as Smog Check Inspector License Number EO 153784 effective January 2, 2013.<sup>1</sup> The  
21 smog check inspector license will expire on December 31, 2016, unless renewed.

22 **Asif Afzal**

23 5. On or about May 20, 2013, the Director issued Smog Check Inspector License  
24 Number EO 635547 to Asif Afzal (“Respondent Afzal”). The smog check inspector license was

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26 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 in full force and effect at all times relevant to the charges brought herein and will expire on July  
2 31, 2017, unless renewed.

3 **JURISDICTION**

4 6. Business and Professions Code (“Bus. & Prof. Code”) section 9884.7 provides that  
5 the Director may revoke an automotive repair dealer registration.

6 7. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
7 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
8 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
9 invalidating (suspending or revoking) a registration.

10 8. Health and Safety Code (“Health & Saf. Code”) section 44002 provides, in pertinent  
11 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
12 for enforcing the Motor Vehicle Inspection Program.

13 9. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
14 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
15 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
16 of jurisdiction to proceed with disciplinary action.

17 10. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
18 suspended following a hearing under this article, any additional license issued under this chapter  
19 in the name of the licensee may be likewise revoked or suspended by the director.

20 11. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that  
21 “[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission  
22 Specialist Technician license issued prior to the effective date of this regulation, the licensee may  
23 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

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1 (2) The smog check technician to successfully complete one or more  
2 retraining courses prescribed by the department pursuant to subdivision (c) of Section  
3 44031.5, or successfully complete one or more advanced retraining courses  
4 prescribed by the department, or both.

5 . . . .

6 (e) Failure to comply with an order of abatement or payment of an  
7 administrative fine issued by the department pursuant to this section is grounds for  
8 suspension or revocation of the license, or placing the license on probation . . .

9 16. Health & Saf. Code section 44055, subdivision (b), states:

10 The department may deny an application for the renewal of a test station  
11 or repair station license if the applicant, or any partner, officer, or director thereof, has  
12 failed to pay any civil penalty or administrative fine in accordance with this article.

13 17. Health & Saf. Code section 44072.2 states, in pertinent part:

14 The director may suspend, revoke, or take other disciplinary action  
15 against a license as provided in this article if the licensee, or any partner, officer, or  
16 director thereof, does any of the following:

17 (a) Violates any section of this chapter [the Motor Vehicle Inspection  
18 Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted  
19 pursuant to it, which related to the licensed activities.

20 . . . .

21 (c) Violates any of the regulations adopted by the director pursuant to this  
22 chapter.

23 (d) Commits any act involving dishonesty, fraud, or deceit whereby  
24 another is injured . . .

25 18. Health & Saf. Code section 44072.10 states, in pertinent part:

26 . . . .

27 (c) The department shall revoke the license of any smog check technician  
28 or station licensee who fraudulently certifies vehicles or participates in the fraudulent  
inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of  
the following:

(1) Clean piping, as defined by the department . . .

19. California Code of Regulations, title 16, section 3340, states, in pertinent part, that  
"[c]lean piping' for the purposes of Health and Safety Code section 44072.10(c)(1), means the  
use of a substitute exhaust emissions sample in place of the actual test vehicle's exhaust in order  
to cause the EIS to issue a certificate of compliance for the test vehicle".

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1 **COST RECOVERY**

2 20. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
3 the administrative law judge to direct a licentiate found to have committed a violation or  
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
5 and enforcement of the case.

6 **VIDEO SURVEILLANCE OPERATION OF AUGUST 28, 2014**

7 21. The Bureau received an anonymous tip that Respondent Shafiq's smog check facility  
8 was clean-piping vehicles.

9 22. On August 28, 2014, between 0856 and 1712 hours, Bureau Representative D. B.  
10 conducted a video surveillance operation of the smog check facility.

11 23. On August 29, 2014, D. B. reviewed the surveillance video and information obtained  
12 from the Bureau's vehicle information database ("VID"). The VID data showed that between  
13 1044 and 1101 hours, Respondent Afzal ("Afzal") performed a smog inspection on a 1995 Honda  
14 Accord, License No. 964526V ("1995 Honda), on behalf of Respondent Shafiq, resulting in the  
15 issuance of electronic smog Certificate of Compliance No. YJ345863C. In fact, the surveillance  
16 video revealed that a 2003 Toyota Camry was present in the facility's only smog test bay during  
17 the emissions sampling portion of the smog inspection on the 1995 Honda; i.e., the 1995 Honda  
18 was not present in the test bay during the emissions test. The Bureau concluded that Afzal  
19 performed the smog inspection on the 1995 Honda using clean piping methods, resulting in the  
20 issuance of a fraudulent certificate of compliance for the vehicle.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 24. Respondent Shafiq's registration is subject to disciplinary action pursuant to Bus. &  
24 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement  
25 which he knew or in the exercise of reasonable care should have known to be untrue or  
26 misleading, as follows: Respondent Shafiq's smog check inspector, Respondent Afzal, certified  
27 that the 1995 Honda had passed inspection and was in compliance with applicable laws and

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1 regulations. In fact, Afzal used clean piping methods in order to issue a certificate for the vehicle  
2 and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 25. Respondent Shafiq's registration is subject to disciplinary action pursuant to Bus. &  
6 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that  
7 constitutes fraud by issuing an electronic smog certificate of compliance for the 1995 Honda  
8 without ensuring that a bona fide inspection was performed of the emission control devices and  
9 systems on the vehicle, thereby depriving the People of the State of California of the protection  
10 afforded by the Motor Vehicle Inspection Program.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Violations of the Motor Vehicle Inspection Program)**

13 26. Respondent Shafiq's smog check station license is subject to disciplinary action  
14 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
15 comply with provisions of that Code, as follows:

16 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
17 performed on the 1995 Honda in accordance with procedures prescribed by the department.

18 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
19 the 1995 Honda without ensuring that the vehicle was properly tested and inspected to determine  
20 if it was in compliance with Health & Saf. Code section 44012.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 27. Respondent Shafiq's smog check station license is subject to disciplinary action  
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to  
6 comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate  
8 of compliance for the 1995 Honda even though the vehicle had not been inspected in accordance  
9 with section 3340.42.

10 b. **Section 3340.42**: Respondent failed to ensure that the required smog tests were  
11 conducted on the 1995 Honda in accordance with the Bureau's specifications.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Dishonesty, Fraud or Deceit)**

14 28. Respondent Shafiq's smog check station license is subject to disciplinary action  
15 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a  
16 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog  
17 certificate of compliance for the 1995 Honda without ensuring that a bona fide inspection was  
18 performed of the emission control devices and systems on the vehicle, thereby depriving the  
19 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
20 Program.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Violations of the Motor Vehicle Inspection Program)**

23 29. Respondent Afzal's smog check inspector license is subject to disciplinary action  
24 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
25 comply with section 44012 of that Code in a material respect, as follows: Respondent failed to  
26 perform the emission control tests on the 1995 Honda in accordance with procedures prescribed  
27 by the department.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 30. Respondent Afzal's smog check inspector license is subject to disciplinary action  
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to  
6 comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the 1995  
8 Honda in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of  
9 Regulations, title 16, section 3340.42.

10 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the  
11 Emissions Inspection System by entering vehicle identification information or emission control  
12 system identification data for a vehicle other than the one being tested.

13 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the 1995  
14 Honda in accordance with the Bureau's specifications.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 **(Dishonesty, Fraud or Deceit)**

17 31. Respondent Afzal's smog check inspector license is subject to disciplinary action  
18 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a  
19 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog  
20 certificate of compliance for the 1995 Honda without performing a bona fide inspection of the  
21 emission control devices and systems on the vehicle, thereby depriving the People of the State of  
22 California of the protection afforded by the Motor Vehicle Inspection Program.

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1 **FAILURE TO COMPLY WITH CITATION NO. M2014-0965**

2 **NINTH CAUSE FOR DISCIPLINE**

3 **(Failure to Provide Proof of Completion of Training)**

4 32. On or about June 17, 2014, the Bureau issued Citation No. M2014-0965 against  
5 Respondent Afzal for violating Health & Safety Code section 44032. On or about May 27, 2014,  
6 Respondent issued a certificate of compliance to a Bureau undercover vehicle with the ignition  
7 timing adjusted beyond specifications. Respondent was directed to complete an 8-hour BAR  
8 certified training course and to submit proof of completion to the Bureau within 60 days from  
9 receipt of the citation. On or about August 13, 2014, Respondent appealed the citation. On or  
10 about July 23, 2015, the citation was affirmed with an effective date of September 18, 2015.  
11 Respondent was ordered to submit proof of completion of the training course within sixty (60)  
12 days of the effective date of the Decision.

13 33. Respondent Afzal Asif's smog check inspector license No. EO635547 is subject to  
14 disciplinary action pursuant to Health & Saf. Code section 44050, subdivision (e), in that  
15 Respondent has failed to provide the Bureau with proof of completion of the BAR certified  
16 training course.

17 **MATTERS IN AGGRAVATION**

18 34. To determine the degree of discipline, if any, to be imposed on Respondents,  
19 Complainant alleges as follows:

20 **Respondent Smog 4 Less, Mohammad Shafiq, owner**

21 a. On or about June 21, 2013, the Bureau issued Citation No. C2013-0730 against  
22 Respondent Shafiq in his capacity as owner of Smog 4 Less for violating Health & Saf. Code  
23 section 44012, subdivision (f). On or about May 28, 2013, Respondent issued a certificate of  
24 compliance to a Bureau undercover vehicle with a missing air injection reactor (AIR) system.  
25 The Bureau assessed a civil penalty of \$1,000 against Respondent for the violations. On or about  
26 September 4, 2013, Respondent appealed the citation, but it was affirmed with an effective date  
27 of November 14, 2014. Respondent complied with the citation on December 2, 2014.  
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1           b.     On or about June 17, 2014, the Bureau issued Citation No. C2014-0964 against  
2 Respondent Shafiq in his capacity as owner of Smog 4 Less for violating Health & Saf. Code  
3 section 44012, subdivision (f). On or about May 27, 2014, Respondent issued a certificate of  
4 compliance to a Bureau undercover vehicle with the ignition timing adjusted beyond  
5 specifications. The Bureau assessed a civil penalty of \$2,000 against Respondent for the  
6 violations. On or about August 13, 2014, Respondent appealed the citation. On or about July 23,  
7 2015, the citation was affirmed with a reduction of the fine to \$1,500 and an effective date of  
8 September 18, 2015. Respondent complied with this citation on December 18, 2015.

9           **Respondent Shafiq**

10           c.     On or about June 21, 2013, the Bureau issued Citation No. M2013-0731 against  
11 Respondent Shafiq's smog check inspector license for violating Health & Saf. Code section  
12 44032. On or about May 28, 2013, Respondent issued a certificate of compliance to a Bureau  
13 undercover vehicle with a missing AIR system. Respondent was ordered to complete an 8-hour  
14 BAR (Bureau) training course and to submit proof of completion to the Bureau within sixty (60)  
15 days from receipt of the citation. On or about September 4, 2013, Respondent appealed the  
16 citation; however, it was affirmed with an effective date of November 14, 2014. Respondent  
17 complied with this citation on November 30, 2014.

18           **Respondent Afzal**

19           d.     On or about June 17, 2014, the Bureau issued Citation No. M2014-0965 against  
20 Respondent Afzal for violating Health & Saf. Code section 44032. On or about May 27, 2014,  
21 Respondent issued a certificate of compliance to a Bureau undercover vehicle with the ignition  
22 timing adjusted beyond specifications. Respondent was directed to complete an 8-hour BAR  
23 certified training course and to submit proof of completion to the Bureau within 60 days from  
24 receipt of the citation. On or about August 13, 2014, Respondent appealed the citation. On or  
25 about July 23, 2015, the citation was affirmed with an effective date of September 18, 2015.  
26 Respondent has failed to provide the Bureau with proof of completion of the BAR certified  
27 training course.

28           **OTHER MATTERS**



- 1           5.     Revoking or suspending any additional license issued under Chapter 5 of the Health
- 2 and Safety Code in the name of Mohammad Shafiq;
- 3           6.     Revoking or suspending Smog Check Inspector License Number EO 635547, issued
- 4 to Asif Afzal;
- 5           7.     Revoking or suspending any additional license issued under Chapter 5 of the Health
- 6 and Safety Code in the name of Asif Afzal;
- 7           8.     Ordering Mohammad Shafiq, individually, and as owner of Smog 4 Less, and Asif
- 8 Afzal to pay the Director of Consumer Affairs the reasonable costs of the investigation and
- 9 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 10          9.     Taking such other and further action as deemed necessary and proper.

11  
12 DATED: March 29, 2016

  
PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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